

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT PETITION No.32215 of 2015

Date: 29.02.2016

Between:

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Smt S.Vijaya W/o Ashok, Aged about 46 years,
Occu: Social Worker, R/o 4-38-134,
Deenabandhu Colony, Jagdirgutta, Kukatpally,
Hyderabad.

..... Petitioner

And

The State of Telangana, rep.by its Principal
Secretary, Revenue (Excise) Department,
Secretariat, Hyderabad and others.

.....Respondents

The Court made the following:

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PC: (Per the Hon'ble Sri Justice P.Naveen Rao)

Petitioner, who is a resident of Deenabandhu Colony, Jagdirgutta, Kukatpally, Hyderabad, filed this writ petition praying to grant following relief:

“Action of the respondents 1 to 4 in granting licence bearing No.27 in favour of unofficial respondent no.5 for running the Wine Shop to sell Indian Made Liquor and Foreign Made Liquor within radius of 89 meters from the existing Chittaramma Temple and Sivalayam temples situated at Division No.123 of Dheenabandhu Colony, Vivekananda Nagar, Kukatpally, Ranga Reddy District is illegal, arbitrary, unconstitutional and violation of principles of natural justice and consequently direct the respondents 1 to 4 either to alternate remedies to shift unofficial 5th respondent wine shop at afar away from the temples, schools etc.”

2. Petitioner claims to be the social worker and Mahila President of Telangana State Madiga Dandora. The grievance of the petitioner is 5th respondent was allotted wine shop to sell Indian Made Liquor and Foreign Made Liquor vide his licence No.27 in Division No.123, Vivekananda Nagar Colony, Kukatpally.

3. Learned counsel for petitioner contends that 5th respondent was constructing shop to establish the said retail outlet very nearer to two temples i.e., Chittaramma and Sivalayam. Both temples are within 89 meters radius. Thus, the action of the respondents 2 to 4 in granting licence to 5th respondent and permitting him to establish wine shop very close to two temples is *ex facie* illegal. Such action amounts to offending religious sentiments of devotees of these two temples.

Several representations were submitted by the local residents. They have also conducted 'dharna' opposing establishment of such retail outlet. Learned counsel for petitioner contends that there is a clear bar of establishing any retail outlet to sell liquor within 100 meters of existing temples, schools, residential areas etc., and in violation of the said restriction the shop is permitted.

4. Respondent No.3 filed counter affidavit. According to the averments in the counter affidavit, petitioner and other local residents and members of welfare associations have submitted representations to the Collector and District Magistrate, Ranga Reddy District; Deputy Commissioner of Prohibition and Excise, Ranga Reddy District; and Prohibition and Excise Superintendent, Medchel, opposing issuance of A4 shop licence at the proposed premises, which is within the radius of 89 meters of existing temples. Those representations were forwarded to the Station House Officer at Balanagar to conduct thorough enquiry. The Station House Officer at Balanagar in his report submitted that there is no recognized temple, which is within the 100 meters distance from the premises where the 5th respondent sought to establish liquor outlet. Nearest temple, by name, Sri Shivabaktha Markandeya Abayanjaneya, is at the distance of 135 meters. According to the said report, no temple or educational institution or hospital and place of public worship is within the radius of 100 meters.

5. Based on the said report, learned Government Pleader for Excise submits that there was no illegality in granting permission to the 5th respondent. He further submits that according to the provision in Rule 25 of A.P.Excise (Grant of Licence of selling by shop and conditions of licence) Rules, 2012 (for short, 'Rules 2012'), which is adopted by the Telangana State after formation of the State, a request for establishment of retail outlet is rejected if there is a registered temple within 100 meters of such location. The two temples referred to above by the petitioner are not registered temples and, therefore, the

existence of those two temples has no relevance. He, therefore, submits that no illegality was committed by the respondent authorities in granting licence to the 5th respondent.

6. A bare look at provision in Rule 25 of Rules, 2012 would show that before granting permission to locate a retail outlet, the competent authority has to ensure that there is no registered temple and place of public worship, recognized educational institution, Government owned or managed hospital or private owned hospital having atleast 30 beds within the radius of 100 meters. According to the report of the Station House Officer, Balanager, nearest temple, 'Sri Shivabaktha Markandeya Abayanjaneya', is located at 135 meters distance. No material is placed on record to show that the two temples referred by the petitioner are registered temples and that selection of subject premises is violated by any other conditions imposed in the Rules, 2012. Thus, it cannot be said that respondents 2 to 4 have committed illegality and violated Rule 25 of the Rules 2012 in granting permission to the 5th respondent to locate the retail outlet in the subject premises. We see no merit in the writ petition and writ petition is accordingly dismissed.

Miscellaneous petitions if any pending in the writ petition shall stand closed.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date: 29.02.2016

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